

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-237 (ND)2019

IN THE MATTER OF:

Smt. Sushila Lakhotia

Wife of late Shri Subhash Chandra Lakhotia,
Resident of :
Lakhotia House, S-28,
Greater Kailash-II, New Delhi- 110048

...Applicant/Financial Creditor

VERSUS

Zeal Developers Private Limited

Registered office at :
114, Block-M (Site I), New Rajinder Nagar,
New Delhi-110060

...Respondent

Section: 7 of the IBC, 2016

Order Delivered on : 16.12.2022

CORAM:

SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Mr. Sandeep Bhuraria and Mr. Monish Surendran

For the Respondent : Adv. Himanshu Kaushik

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

Smt. Sushila Lakhotia (for brevity, **the 'Applicant/Operational Creditor'**) has filed the present Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity, **the 'IBC, 2016'**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process against M/s. Zeal Developers Private Limited (**the 'Respondent'**).

2. The Respondent namely, M/s. Zeal Developers Private Limited is a Company incorporated on 08.09.2006 under the provisions of erstwhile Companies Act, 1956 with CIN U45200DL2006PTC153351, having its registered office at 114, Block-M (Site I), New Rajinder Nagar, New Delhi-110060, which is within the territorial jurisdiction of this Tribunal. The Authorized Share Capital of the Respondent is Rs. 24,90,000/- and Paid-up Share Capital is Rs.23,93,200/- as per the master data annexed with the Petition.

3. To put succinctly, the facts of the case are that the Financial Creditor Smt. Sushila Lakhotia had filed the present Application bearing No. IB-237-2022 under Section 7 of IBC, 2016 for initiating CIRP against the Corporate Debtor M/s Zeal Developers Pvt. Ltd. This

Adjudicating Authority, vide order dated 28.05.2019, had dismissed the said Application.

4. On 23.09.2022, the Ld. Counsel for the Applicant informed that the Hon'ble NCLAT vide its order dated 23.02.2022 in **Company Appeal (AT) (Ins.) No. 711 of 2019** has set aside the order dated 28.05.2019 of this Adjudicating Authority. The relevant extract of the Hon'ble NCLAT's order (supra) is reproduced below:

"10. In the above conclusion, we are of the view that Adjudicating Authority has committed error in rejecting the Application. The Impugned Order dated 28th May, 2019 is set aside. Let the Adjudicating Authority pass an order for admission of the Application within one month from the date when the Order is produced before the Adjudicating Authority. It shall be open for the parties to enter into a Settlement during the said period if they so desire."

The Ld. Counsel appearing for the Respondent sought time to seek instructions and make submissions.

5. Further on 30.11.2022, Ld. Counsel for the Applicant submitted that they had filed an **IA-4134 of 2022 in Company Appeal (AT) (Ins.) No. 711 of 2019**, wherein the Hon'ble NCLAT vide order dated 11.11.2022 had asked this Adjudicating Authority to proceed to pass appropriate orders in terms of its earlier order dated 23.02.2022. Ld. Counsel for the Applicant further submitted that there has been no effort on the part of the Respondent to settle the debt.

6. Accordingly, in compliance of the directions passed by Hon'ble NCLAT vide order dated 23.02.2022 in **Company Appeal (AT) (Ins.) No. 711 of 2019**, we hereby admit the present Application under Section 7(5) of the Insolvency and Bankruptcy Code, 2016. Accordingly, the CIRP is initiated and moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the corporate debtor.”

7. As proposed by the Applicant, this Bench appoints Mr. Atul Mittal IP (E-mail: a.mittalmc@gmail.com) having Registration No. IBBI/IPA001/IP-P-00439/2017-18/10762, as IRP subject to the

condition that no disciplinary proceeding is pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. This Adjudicating Authority orders that:

“Mr. Atul Mittal (E-mail: a.mittalmc@gmail.com IRP having Registration No. IBBI/IPA001/IP-P-00439/2017-18/10762 is directed to take charge of the CIRP of the Corporate Debtor with immediate effect. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.”

8. The Applicant is directed to deposit Rs. 2,00,000/- (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.

9. A copy of this Order shall immediately be communicated to the Applicant/Financial Creditor, the Corporate Debtor and the IRP mentioned above by the Registry/Court Officer of this Tribunal.

10. In addition, a copy of the Order shall also be forwarded by the Registry/Court Officer to the IBBI for their record.

—Sd—

**(L. N. GUPTA)
MEMBER (T)**

—Sd—

**(BACHU VENKAT BALARAM DAS)
MEMBER (J)**